

# DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548

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FILE: B-221133

DATE: April 15, 1986

MATTER OF: Department of Defense Military Pay and  
Allowance Committee Action Number 559

## DIGEST:

Travel allowances payable in advance to enlisted service members at the time of their final discharge for their subsequent personal travel home may not properly be subjected to offset on account of their debts to the Government, since it has long been recognized as a matter of public policy that it is impermissible to discharge enlisted service members at their last post of duty without the means of returning home. This policy has no application to former enlisted members who have completed their separation travel, however, and travel allowances remaining due to them after they have returned home may be withheld and applied against their debts.

The question presented in this matter is whether--

"In the case of an enlisted military member being separated from the Service while indebted to the United States, may an administrative offset from final pay include payments for the member's separation travel due after completion of travel?"<sup>1/</sup>

We conclude that separation travel allowances which remain due to the former enlisted members, after they have been discharged and have completed their travel home from their last duty station, may properly be withheld and applied toward the satisfaction of their debts. This, however,

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<sup>1/</sup> This question was submitted by the Principal Deputy Assistant Secretary of Defense (Comptroller). The circumstances giving rise to the question are described in Department of Defense Military Pay and Allowance Committee Action Number 559, which was forwarded with the request for a decision.

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does not extend to travel allowances payable in advance to enlisted service members at the time of their final discharge for their subsequent personal travel home.

#### Background

Subsection 404(a) of title 37, United States Code, currently provides that under regulations prescribed by the Secretaries concerned, members of the uniformed services are entitled to allowances for their personal travel upon separation from service from their last duty station to their home or the place from which they were called or ordered to active duty. Subsection 404(f)(2)(A) of title 37 further provides, however, that only transportation in kind by the least expensive mode of transportation available, or a monetary allowance that does not exceed the cost to the Government of such transportation in kind, may be furnished to enlisted members who (1) on the date of their separation have not served a period of active duty equal to at least 90 percent of the period of time for which they initially enlisted, or (2) are separated from the service under other than honorable conditions.

Implementing regulations are contained in Volume 1 of the Joint Travel Regulations. Paragraph M1100-1 of those regulations generally authorizes full payment of service members' personal travel allowances in advance of the performance of separation travel, subject to certain limitations and conditions. Paragraph M1100 also provides specifically, however, that those service members described by 37 U.S.C. § 404(f)(2)(A), who elect to receive a monetary allowance rather than to be provided with transportation in kind for their separation travel, may only be advanced an amount equal to 75 percent of the least costly mode of common carrier transportation available.

The Department of Defense Military Pay and Allowance Committee notes that in 1954 we held that travel allowances payable to enlisted members upon discharge for their personal travel home are not subject to setoff against their debts to the Government, and this holding has been incorporated in the regulations governing their pay

entitlements.<sup>2/</sup> The Committee further notes, however, that in 1955 we subsequently held that allowances payable under the statutes and regulations then in effect to former service members after their separation as reimbursement for the transportation of their dependents and household goods could be subjected to setoff against the members' debts, since "(t)he fact that reimbursement is claimed shows that the members had sufficient funds [in advance] to obtain the necessary transportation."<sup>3/</sup>

The Committee indicates the belief that when former enlisted service members have returned to their homes after being discharged and then seek reimbursement of their personal travel expenses, there should similarly be no need for concern about the possibility of their having insufficient funds to travel home. The Committee consequently questions whether amounts remaining due to former enlisted service members for their separation travel, after that travel is performed, may properly be withheld and applied toward the satisfaction of their debts to the Government. The Committee indicates that this question primarily concerns former members who fail to complete their initial terms of enlistment or are discharged under other than honorable conditions, and who are consequently eligible to draw only a part of their authorized monetary travel allowance in advance of their actual performance of travel under the current regulations. However, the issue would relate generally to all former enlisted members applying for reimbursement of their personal traveling expenses after completing their travel home.

#### Analysis and Conclusion

It is well settled that amounts due from the Government to former members and under certain circumstances to current

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<sup>2/</sup> See 34 Comp. Gen. 164, 167 (1954); and table 7-7-6 (rules 1 and 4), Department of Defense Military Pay and Allowances Entitlements Manual.

<sup>3/</sup> See 34 Comp. Gen. 504, 506-507 (question 2) (1955). There we also noted that the longstanding policy against withholding travel allowances due enlisted members upon separation had never been extended to and did not apply to officers of the uniformed services.

members of the uniformed services, including travel allowances which may be payable to them, are subject to setoff against their debts to the Government.<sup>4/</sup> Nevertheless, the accounting officers of the Government have long held that the debts of enlisted members may not properly be charged against the allowances payable to them at the time of their discharge for the purpose of providing them with return travel to their home or place of enlistment.<sup>5/</sup> This principle is not specifically prescribed by statute, but is predicated on the longstanding and uncontroverted view that the Congress, as a matter of public policy, did not intend that enlisted members should be discharged, often far from home, without sufficient funds to return to their homes.<sup>6/</sup> This policy was founded on an observation that it would be highly injurious to the service, to say nothing of the country at large, to discharge enlisted service members in places distant from their homes and leave them without the means of returning there.<sup>7/</sup>

In the present matter it is therefore our view that under the statutes and regulations currently in effect, enlisted service members may be paid advance travel allowances at the time of their final discharge for their travel home to the extent authorized under paragraph M1100-1 of the Joint Travel Regulations, without any checkage on account of debts they owe the Government. Our further view is,

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<sup>4/</sup> See 58 Comp. Gen. 501, 503 (1979); and David J. DuCharme, B-188257, July 7, 1977.

<sup>5/</sup> See, e.g., 20 Comp. Dec. 707 (1914) and 8 Comp. Dec. 624 (1902).

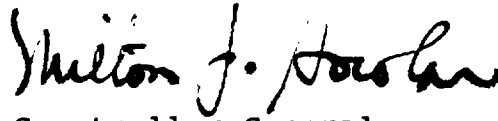
<sup>6/</sup> 36 Comp. Gen. 106, 107 (1956); 34 Comp. Gen. 164, supra, at 167.

<sup>7/</sup> 8 Comp. Dec. 624, supra, at 625. In addition, it has long been the rule that if indebted enlisted members are given an option at the time of their discharge of receiving either a monetary allowance or transportation in kind for their travel home, they need not choose transportation in kind and may instead elect to receive the full amount of the advance travel allowance authorized without checkage on account of their debts. 20 Comp. Dec. 707, supra, at 709.

B-221133

however, that amounts due former enlisted members on claims for reimbursement submitted after they have completed their separation travel should be subjected to offset if they are indebted to the Government. In that situation where the separation travel has been completed there can be no basis for invoking the policy of exempting travel allowances from setoff to avoid the possibility of stranding former service members at their last post of duty without the means of returning home.

The question presented is answered accordingly.

*for*   
Comptroller General  
of the United States